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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
CHAIRMAN-COMMISSIONER
JIM IRVIN
COMMISSIONER
WILLIAM MUNDELL
COMMISSIONER

Arizona Corporation Commission

DOCKETED

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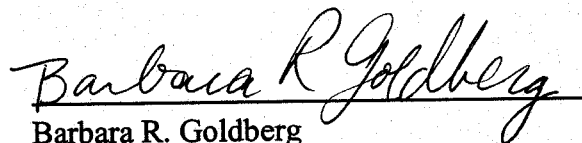
IN THE MATTER OF THE)	DOCKET NO. W-01656A-98-0577
APPLICATION OF SUN CITY WATER)	DOCKET NO. SW-02334A-98-0577
COMPANY AND SUN CITY WEST)	
UTILITIES COMPANY FOR)	DECISION NO. 62293
APPROVAL OF CENTRAL ARIZONA)	
PROJECT WATER UTILIZATION PLAN)	SUN CITY WATER COMPANY AND
AND FOR AN ACCOUNTING ORDER)	SUN CITY WEST UTILITIES
AUTHORIZING A GROUNDWATER)	COMPANY'S FILING OF BINDING
SAVINGS FEE AND RECOVERY OF)	AGREEMENTS PURSUANT TO
DEFERRED CENTRAL ARIZONA)	PROCEDURAL ORDER DATED
PROJECT EXPENSES.)	AUGUST 21, 2000
)	
)	

The Commission's February 1, 2000 Opinion and Order in these dockets required Sun City Water Company and Sun City West Utilities Company (collectively "the Companies") to file, within six months of the effective date of the Decision, the "preliminary design/updated cost estimate . . . including (a) the feasibility of a joint facility with the Agua Fria Division, including the timeframe for any such joint facility; (b) the need for all major elements of its proposed plan (e.g., storage and booster stations); and (c) binding commitments from golf courses, public and private, and the terms and conditions related thereto."

Pursuant to the Arizona Corporation Commission Procedural Order dated August 21, 2000, the Companies were granted an extension until November 1, 2000 to file the binding commitments from golf courses required in item (c) above.

Pursuant to the August 21 Order, the Companies hereby file an Agreement for Exchange of CAP Water in Sun City West (attached as Exhibit A) and an Agreement for Exchange of CAP Water in Sun City (attached as Exhibit B).

RESPECTFULLY SUBMITTED this 31st day of October, 2000.



Barbara R. Goldberg
Steptoe & Johnson LLP
Two Renaissance Square
40 North Central Avenue, 24th Floor
Phoenix, Arizona 85004-4453

Attorney for Sun City Water
Company and Sun City West Utilities, Inc.

Original and ten copies of the
foregoing filed on October 31, 2000
with:

Docket Control Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Copies of the foregoing hand-
delivered on October 31, 2000 to:

Lyn Farmer, Chief Counsel
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Deborah Scott
Director, Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Jerry Rudibaugh
Hearing Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Pat Williams
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

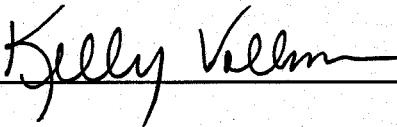
Copies of the foregoing mailed
on October 31, 2000 to:

Scott Wakefield
Residential Utilities Consumer Office
2828 N. Central Avenue, Suite 1200
Phoenix, Arizona 85004

Paul R. Michaud
Martinez & Curtis
2712 N. Seventh Street
Phoenix, Arizona 85006-1090
Attorneys for Sun City Taxpayers Association

Walter W. Meek
AUIA
2100 N. Central Avenue, Suite 210
Phoenix, Arizona 85004

William G. Beyer
5632 W. Alameda Road
Glendale, Arizona 85310
Attorney for CAP Task Force, Recreation
Centers of Sun City and Recreation Centers
of Sun City West



AGREEMENT FOR EXCHANGE OF CAP WATER IN SUN CITY WEST

This Agreement for Exchange of CAP Water in Sun City West ("Agreement") is made this 20th day of October, 2000 by SUN CITY WEST UTILITIES COMPANY ("Water Company"), an Arizona corporation, and RECREATION CENTERS OF SUN CITY WEST ("Recreation Centers"), an Arizona non-profit corporation ("the Parties").

I. RECITALS

A. In February of 1998, eight community organizations in Sun City, Sun City West and Youngtown established the CAP Task Force to determine if the 6,561 acre foot allocation of Central Arizona Project ("CAP") water intended for use in Sun City, Sun City West and Youngtown ("the Sun Cities") should be retained, and if so, how the water should be used and paid for.

B. Over a fourteen-week period, the CAP Task Force studied issues such as groundwater declines, the availability of alternative water supplies and the impact of relinquishing the CAP allocations.

C. After studying the options for use of CAP water, the CAP Task Force recommended that CAP water be retained and used through an arrangement with local golf courses. CAP water would be delivered to Sun City and Sun City West through a nonpotable pipeline ("the Pipeline") and used to irrigate golf courses that have historically pumped groundwater. The CAP Task Force submitted its final report by resolution on May 19, 1998.

D. Water Company entered into a contract entitled "Subcontract Among the United States, the Central Arizona Water Conservation District and the Sun City West Utilities Company Providing for Water Service, Central Arizona Project," Contract No. 00XX300002,

dated October 26, 1999 ("the CAP Subcontract"), entitling it to 2,372 acre feet of CAP water use in its service area.

E. This Agreement is intended to (1) provide CAP water to golf courses to replace their use of groundwater thereby preserving groundwater supplies under Sun City and benefiting the entire community; (2) allow Water Company to utilize its CAP water at substantially less cost than building a treatment plant thereby providing the most direct benefit to rate payers at the lowest possible cost; and (3) legally convert a portion of Water Company's groundwater pumping into surface water through a water exchange thereby significantly reducing the community's historic reliance on groundwater in the exchange.

F. The Parties to this Agreement intend to implement the project through a water exchange. Water Company will give CAP water and Recreation Centers will give groundwater in the exchange.

G. Water Company is an Arizona public service corporation within the meaning of Article 15, § 2 of the Arizona Constitution and is authorized to provide water service within portions of Maricopa County, Arizona ("the Certificated Area") pursuant to a certificate of convenience and necessity granted by order of the Arizona Corporation Commission ("ACC") and is authorized to withdraw groundwater pursuant to its water service area right (56-002038.0000) established under A.R.S. Title 45, Article 6.

H. Recreation Centers withdraws groundwater pursuant to certain non-irrigation grandfathered rights and other withdrawal authorities.

I. Water Company and Recreation Centers desire to enter into an agreement whereby Water Company provides CAP water to Recreation Centers for irrigation of golf

courses in exchange for the use of groundwater, and Recreation Centers provides groundwater to Water Company for potable deliveries in exchange for the use of CAP water.

J. Recreation Centers acknowledges that in order to effectuate this Agreement, Water Company or an affiliated entity will construct the Pipeline to deliver CAP water to Recreation Centers' golf courses in reliance on Recreation Centers' commitment to use CAP water pursuant to this Agreement.

K. Water Company desires to use Recreation Centers' existing water distribution system for delivery of CAP water to the golf courses, which will allow Water Company to avoid certain costs of building a distribution system.

NOW, THEREFORE, in consideration of covenants and agreements contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

II. CAP EXCHANGE AGREEMENT

1. Exchange. Water Company and Recreation Centers hereby agree to a legal arrangement under Arizona law (A.R.S. §45-1001) called an "exchange." Pursuant to Arizona law, Water Company will annually "give" to Recreation Centers up to 2,372 acre feet of Water Company's CAP water, and Recreation Centers will "give" Water Company an equal amount of Recreation Centers' groundwater. In reality, Recreation Centers will use CAP water delivered to it and refrain from pumping groundwater in the amount of CAP water used. In reality, Water Company will continue to pump groundwater from its wells in the same amount as it historically pumped, but it will be able to account for the groundwater as if it was CAP water up to the amount of CAP water delivered to Recreation Centers. The net result will be a reduction in total groundwater pumping as a result of the use of CAP water on Recreation Centers' golf courses. Pursuant to Arizona exchange law, Water Company must account for the groundwater it "receives" in the exchange as CAP water, and Recreation Centers must account for the CAP

water it "receives" in the exchange as groundwater. Each party may use the water it receives only in the manner in which it may legally use the water it gives in the exchange. Therefore, the same acreage and water use restrictions that applied to Recreation Centers before the exchange will continue to apply after the exchange.

2. Exchange Period. The exchange period is the calendar year.
3. CAP Water Rights. Water Company will exchange up to 2,372 acre-feet of CAP water pursuant to its Municipal and Industrial CAP Subcontract No. 00XX300002.
4. Groundwater Rights. Recreation Centers will exchange groundwater pursuant to the following water rights:

Type 1 Grandfathered Rights

58-117269.0003	417.04 acre feet
58-130750.0002	368.50 acre feet
58-111140.0002	306.38 acre feet

Type 2 Grandfathered Right

58-110773	753 acre feet
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Groundwater Industrial Use Permits

59-511014.0000	347 acre feet
59-511012.0000	534 acre feet
59-511008.0000	198 acre feet
59-511016.0000	227 acre feet

For purposes of satisfying the Arizona Department of Water Resource's requirements for exchanging Type 1 rights, and for purposes of this exchange only, the parties hereby recite that Recreation Centers has the theoretical right to withdraw groundwater at the locations where Water Company will withdraw the exchanged groundwater. This does not allow Recreation Centers to use, have any rights to or in any way interfere with Water Company's use of Water Company's wells.

5. Term of Agreement. The initial term of this Agreement runs from the Effective Date through December 31, 2043, which is the date of expiration of the CAP Subcontract. If the CAP Subcontract term is extended or renewed, this Agreement, if still in effect, will automatically renew for a period equal to the new term of the CAP Subcontract (together referred to herein as "Term").

6. Termination of Agreement.

6.1 Either party may terminate this Agreement if any of the following pre-conditions has not occurred.

- a. The Operating Agreement referenced in section 8 of this Agreement has been executed by both parties no later than December 31, 2000.
- b. Arizona Department of Water Resources ("ADWR") has issued all permits or approvals necessary to implement an exchange to enable the use of CAP water on Recreation Centers' golf courses no later than March 31, 2001.
- c. Recreation Centers has applied for and obtained sufficient authority to withdraw groundwater to achieve the purpose of this Agreement for the Term of this Agreement no later than December 31, 2000.
- d. The preliminary design/cost study ordered by the ACC in Decision and Order No. 62293 has been approved by the ACC.

6.2 Except as provided in section 6.1, Recreation Centers may terminate this Agreement only in the event of a material breach of this Agreement by Water Company.

6.3 Water Company may terminate this Agreement for the following reasons:

- a. A material breach by Recreation Centers, including if Recreation Centers remains in arrears in the payment of amounts due under Paragraph 10 of this Exchange for more than 60 days, which termination will be effective 15 days after mailing written notice of termination to Recreation Centers.
- b. If Water Company cannot legally continue to deliver CAP water to Recreation Centers golf courses, after having made a good faith

effort to maintain and/or obtain the necessary legal authority to do so.

- c. If Recreation Centers cannot legally continue to exchange groundwater with Water Company, after having made a good faith effort to maintain and/or obtain the necessary legal authority to do so.
- d. If it becomes necessary for Water Company to use the CAP Subcontract water for potable deliveries to the residents of Sun City West. Before Water Company may terminate this Exchange for this purpose, Water Company must give Recreation Centers at least two years notice, consult with the Board of Directors of Recreation Centers and hold a public information meeting to discuss with the community the reasons for changing the use of the CAP water. If such a change is made, Water Company may not use any water under the CAP Subcontract for the benefit of customers located outside of the certificated area of Sun City West Utilities Company.

6.4 If this Agreement is terminated before Water Company has recovered its investment in the Pipeline and the Pipeline is no longer being used to benefit Sun City West water ratepayers, at the first succeeding rate proceeding the ACC will determine whether Water Company could continue to reflect its investment in the Pipeline in water rates.

7. Delivery and Acceptance of CAP Water. Water Company will meter and deliver to Recreation Centers CAP water for use on its golf courses in the amounts determined pursuant to Paragraph 9 of this Agreement. Water Company will deliver the water at the location shown in Exhibit A to this Agreement ("Point of Delivery"). In no event is Water Company obligated to deliver more than 2,372 acre feet of CAP water in any one year. Recreation Centers agrees to accept delivery of the amount of water ordered pursuant to Paragraph 9 of this Agreement and to use the water in accordance with the terms of this Agreement. Water Company's obligation to deliver CAP water is subject to Water Company's ability to receive the CAP water from the Central Arizona Water Conservation District ("CAWCD"). This Agreement is subject to the

terms and conditions of the CAP Subcontract and the Master Repayment Contract between the CAWCD and the United States, as amended.

8. Location of Use. The CAP water delivered to Recreation Centers pursuant to this Agreement may be used only at the locations where Recreation Centers has the legal authority to use groundwater pursuant to existing authorities to withdraw held by Recreation Centers or any additional authorities to withdraw that may be acquired in the future.

9. Ordering and Delivery of Water. Recreation Centers will order and Water Company will deliver the CAP water pursuant to the ordering and delivery procedure set forth in the Operating Agreement attached hereto as Exhibit B. The Operating Agreement may be amended from time to time by written agreement of both parties without amending this Agreement. Water Company is not obligated to deliver water to Recreation Centers until such time as construction of the Pipeline is complete. Recreation Centers agrees to use its best efforts to use 2,372 acre feet of CAP water on its golf courses each year, consistent with best golf course management practices and legal requirements. Nothing in this Agreement shall be construed to limit the Association's legal right to pump groundwater pursuant to its permits if Water Company is unable to deliver the amounts of CAP water anticipated by this Agreement. Recreation Centers grants Water Company the right to use its existing distribution system. Water Company agrees to maintain the pipes and valves used to deliver CAP water during the Term of the Agreement. For purposes of this paragraph, maintenance means servicing of pipes and valves, repair of leaks, repairs and replacements of individual pipes and valves caused by isolated damage or deterioration, but not including capital replacements of major sections or components of the system needed to address widespread deterioration or failure of the system

due to age, design defects, material failures, subsidence, natural disaster, or other factors which would lead to large-scale replacement of entire sections of piping or classes of components.

10. Payment for Exchanged Water. Recreation Centers must pay Water Company a charge per acre foot of water received pursuant to this Agreement ("the Exchange Charge"). The Exchange Charge for the first five years of deliveries will be an amount equal to 80% of Recreation Centers' average per acre foot cost of purchased power for pumping groundwater during the calendar year prior to the first year Water Company delivers CAP water to Recreation Centers. This will be determined by Water Company in an audit of Recreation Centers' power records. Following the end of the fourth full calendar year of deliveries, Water Company will audit Recreation Centers' books and records pertaining to the power costs of pumping groundwater and determine what the Recreation Centers' average per acre foot power cost for pumping groundwater would have been in the fourth year had it been using 100% groundwater. The Exchange Charge in the sixth through tenth calendar years will be 80% of this per acre foot amount. Recreation Centers agrees to provide any relevant information requested by Water Company for the audit and cost determination. Water Company will perform such an audit and determination every five years and adjust the Exchange Charge accordingly. Water Company will bill Recreation Centers monthly and Recreation Centers must pay the Exchange Charge within 30 days of receipt of a bill. If Recreation Centers does not pay the charge within 45 days of receipt of the bill, Recreation Centers must pay a late charge of 1.5% per month for each day the payment is delinquent beyond the due date.

11. Additional CAP Water. If Recreation Centers acquires additional CAP water after the effective date of this Agreement, Water Company will work with Recreation Centers to either 1) include the additional water in the exchange through an amendment to this Agreement

or a separate agreement, or 2) enter into a new agreement for direct delivery of the CAP water to Recreation Centers.

12. Water Quality. Water Company will deliver water to Recreation Centers suitable for use for irrigating golf courses at the Point of Delivery. Recreation Centers is responsible for the quality of water after the Point of Delivery.

13. Water Exchange Notice and Reporting. Water Company will file a Notice of Water Exchange as required by A.R.S. § 45-1051. In addition, both Water Company and Recreation Centers will file annual reports on water exchanged pursuant to A.R.S. § 45-1004 and will exchange water in accordance with the exchange agreement and any other legal requirements applicable to the exchange. In no event will Recreation Centers use the CAP water in a manner in which it was not legally entitled to use the groundwater being exchanged.

14. Construction Plans. Water Company will submit all construction plans related to connection of the Pipeline to the distribution system for Recreation Centers' approval prior to beginning any construction. The parties agree to cooperate in coordinating construction on the Sun City West distribution system.

15. Dispute Resolution.

15.1 Scope. This section governs the resolution of all disputes arising under this Agreement.

15.2 Good Faith Negotiations. The party that believes a dispute exists under this Agreement will first refer the dispute to the Representatives for resolution. The Representatives of each party will personally meet and attempt in good faith to resolve the dispute. If the Representatives cannot resolve the dispute within 14 days, the matter will be referred to senior management of Recreation Centers and Water Company for resolution. If

these persons are unable to resolve the dispute within 30 days thereafter, a party that still believes the dispute requires resolution may avail itself of the provisions of section 15.3.

15.3 Arbitration. If a party still believes a dispute requires resolution, after following the procedures of Paragraph 15.2, that party will first give a detailed written notice of dispute to the other parties setting forth the nature of the dispute. The Parties will then, upon request of any party, be submitted for and settled by binding arbitration administered by AAA before a single arbitrator. The arbitrator must have substantial experience with the water utility industry. The arbitrator has no power to amend or modify this Agreement. Judgment on the award rendered by the arbitrator must be entered in any court with jurisdiction.

15.4 Other Remedies. The preceding subparagraphs of this Paragraph 15 are intended to set forth the primary procedure to resolve all disputes under this Agreement. It is expected that all disputes that would traditionally be resolvable by a law court would be resolvable under this procedures. However, the Parties recognize certain business relationships could give rise to the need for one or more of the Parties to seek equitable remedies from a court that were traditionally available from an equity court, such as emergency, provisional or summary relief and injunctive relief. Immediately following the issuance of any such equitable relief, the Parties will stay any further judicial proceeding pending arbitration of all underlying claims between the Parties. The Parties also recognize that the ACC has primary jurisdiction over certain issues that may arise among and between the Parties that relate to the provision of public utility service. Accordingly, this Article is not intended to prohibit any party from bringing any such issues to the ACC for resolution or from taking any position at the ACC that would be inconsistent with or barred by this Agreement or by collateral estoppel, *res judicata* or other issues or fact-preclusive doctrines.

15.5 Appeal. Within 30 days after the date of the arbitration award, a party may appeal to the U.S. District Court for the District of Arizona, if such court has jurisdiction, and otherwise to any state court of record in Arizona having jurisdiction, to vacate and remand, or modify or correct the arbitration award for any of the grounds specified in the Federal Arbitration Act.

15.6 Confidentiality. The arbitration proceedings will be conducted in secrecy. Except as otherwise agreed by the Parties in writing, (a) the fact of the pending arbitration will not be disclosed or confirmed by the Parties or the arbitrator to any person who is not a party to, or called to testify at, the proceedings until the arbitration award has been made, (b) the proceedings will not be recorded or transcribed in any manner, and (c) all documents, testimony and records (other than the contract documents out of which the dispute arises) will be received, heard and maintained by the arbitrator in secrecy, available for inspection only by the Parties, their attorneys and by experts who must agree, in advance and in writing, to receive all such information in secrecy. The secret information will not be described in the arbitration award in such manner as to be commercially useful.

16. Indemnification. Water Company is not responsible for the control, carriage, handling, use, disposal or distribution of any water beyond the Point of Delivery. Each party (indemnitor) to this Agreement agrees to indemnify and hold harmless the other party (indemnitee) and its governing bodies, agents, directors, officers and employees for, from and against any loss, damage or liability, including reasonable attorney's fees, caused by a negligent or intentionally willful action or inaction on the part of the indemnitor and its governing bodies, agents, directors, officers and employees, including without limitation, claims for bodily injury,

illness, death or damage to property. Each party assumes liability for its own negligent or intentionally willful action or inaction arising out of the terms and conditions of this Agreement.

17. Uncontrollable Forces. Neither party will be considered to be in default in the performance of its obligations under this Agreement (other than obligations to make payments due hereunder) when a failure of performance is due to Uncontrollable Forces. The term "Uncontrollable Force" means any natural or artificial cause beyond the control of a party to this Agreement that renders the party unable to perform its obligations, including but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, government priorities and restraint by court order or public authority, and action or inaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence the party could not reasonably have been expected to avoid and which by exercise of due diligence it is unable to overcome. Nothing contained herein may be construed to require either party to settle any strike or labor dispute in which it is involved.

18. General Provisions.

18.1 Effective Date. This Agreement is effective upon execution of the Agreement by all parties.

18.2. Recitals Incorporated. All of the recitals made herein are incorporated by reference.

18.3 Authorized Representatives. Within 30 days after execution of this Agreement, each party will designate in writing to the other party an authorized representative ("Representative") and an alternate ("Alternate") to administer the provisions of this Agreement

on behalf of the designating parties. An Alternate may act only in the absence of the Representative. Written notice of a change of Representative or Alternate must be provided at least 30 days before such change becomes effective. Arrangements or understandings of the representatives pursuant to this Agreement must be in writing and signed by them, but notwithstanding the foregoing, neither the Representatives nor the Alternates have authority to amend this Agreement.

18.4 Binding Effect. The provisions of this Agreement inure to the benefit of and be binding upon the respective heirs, personal representatives, successors and assigns of the Parties, but no assignment or transfer of this Agreement or any interest therein is valid until approved in writing by the other party. Such approval may not be unreasonably withheld.

18.5 Notices. Any notice given pursuant to this Agreement must be in writing and be personally delivered or deposited in the United States mail, postage prepaid, certified and return receipt requested to the Parties as follows:

To Water Company:	Sun City West Utilities Company P.O. Box 1687 Sun City, Arizona 85372 Attn: General Manager
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To Recreation Centers:	Recreation Centers of Sun City West 19803 RH Johnson Boulevard Sun City West, Arizona 85375
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Notices are deemed given when personally delivered or, if mailed, five days after the deposit of the notice in the U.S. mail. If a notice initiates the running of a time period for the performance of, or compliance with, any obligation or duty set forth in this Agreement, the notice must be sent certified, return receipt requested. Any party hereto must give written notice of a change of address to the other party as provided above.

18.6 Good Standing; Authority. Each of the Parties represents and warrants to the other party: (a) that it is duly formed, validly existing and in good standing under all applicable laws; and (b) that the individual(s) executing this Agreement on behalf of the respective parties are authorized and empowered to bind the Parties on whose behalf each such individual is signing.

18.7 Exhibits. Any exhibit hereto is incorporated herein by this reference with the same force and affect as if fully set forth in the body hereof.

18.8 Attorney's Fees. If any action is brought by any party with respect to its rights under this Agreement, the prevailing party or parties are entitled to reasonable attorney's fees and court costs from the other party or parties as determined by the court.

18.9 Entire Agreement. The terms, covenants and condition of this Agreement constitute the entire agreement between the Parties and no understandings or obligations not expressly set forth herein are binding upon them. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, on the subject matter of this Agreement, are hereby superseded and merged herein.

18.10 Further Documentation. Each party agrees in good faith to execute, deliver, acknowledge or record further or additional documents, approvals or consents as are required or desirable in order to fully carry out the intent and purpose of this Agreement.

18.11 Governing Law. This Agreement is made under and is governed by the laws of the State of Arizona. Subject to the provisions of Paragraph 16, all proceedings related to this Agreement will be maintained in the courts of the State of Arizona (including the United States District Court for the District of Arizona), which courts have jurisdiction over those proceedings.

18.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which is an original, but all of which constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

18.13 Amendments and Modifications. This Agreement may be modified, amended, rescinded, cancelled or waived, in whole or in part, only by a written instrument executed by all parties.

18.14 Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable under any applicable statute or rule of law, the provision is deemed null and void, but the remainder of this Agreement remains in full force and effect.

18.15 No Partnerships. The Parties to this Agreement may not be deemed to have formed a partnership or joint venture by their execution of this Agreement. The provisions of this Agreement are not intended to be for the benefit of any person, firm, organization or corporation not a party hereto and no such person or entity have any rights or cause of action under this Agreement.

18.16 Waiver. No delay in exercising any right or remedy will constitute a waiver thereof, and no waiver by any party of the breach of any covenant of this Agreement may be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

18.17 Compliance with Laws. Recreation Centers agrees to comply with all applicable local, state and federal laws and permit requirements specifically including all requirements of the Arizona Groundwater Code.

18.18 Books and Records. Recreation Centers must establish and maintain books and records pertaining to use of water under this Agreement, including data on water received and used and any reports filed with ADWR. Subject to applicable laws and regulations, each party to this Agreement has the right during office hours to examine and make copies of each other's books and records relating to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first above written on behalf of Water Company and Recreation Centers by the respective company officials.

SUN CITY WEST UTILITIES COMPANY

Date: October 20, 2000

By: [Signature]
Its: Vice President & General Manager

RECREATION CENTERS OF SUN CITY
WEST

Date: October 11, 2000

By: [Signature]
Its: President

EXHIBIT A

LOCATIONS OF USE AND POINTS OF DELIVERY

EXHIBIT B

OPERATING AGREEMENT

AGREEMENT FOR EXCHANGE OF CAP WATER IN SUN CITY

This Agreement for Exchange of CAP Water in Sun City ("Agreement") is made this 30th day of October, 2000 by SUN CITY WATER COMPANY ("Water Company"), an Arizona corporation, and RECREATION CENTERS OF SUN CITY ("Recreation Centers"), an Arizona non-profit corporation ("the Parties").

I. RECITALS

A. Water Company entered into a contract entitled "Subcontract Among the United States, the Central Arizona Water Conservation District and the Sun City Water Company Providing for Water Service, Central Arizona Project," Contract No. 6-07-30-W0110, dated October 24, 1985 ("the CAP Subcontract"), entitling it to 15,835 acre feet of Central Arizona Project ("CAP") water. Subsequently, Water Company accepted assignment of an additional 380 acre feet of CAP Water from the Town of Youngtown under separate subcontract, Contract No. 8-07-30-W0379.

B. In 1998, Water Company assigned 9,654 acre feet of its entitlement under the CAP Subcontract to Citizens Utilities Company, Aqua Fria Division, resulting in a remaining entitlement of 6,561 acre feet for use in the communities of Sun City, Sun City West and Youngtown.

C. In 1999, Water Company assigned rights to 4,189 acre feet of CAP water under the CAP Subcontract to Sun City West Utilities Company for use in its service area, resulting in Water Company holding rights to 3,809 acre feet of CAP water for use in its service area under Contract No. 6-07-30-W0110. Adding the 380 acre feet of CAP water under Contract No. 8-07-30-W0379, Water Company now has rights to 4,189 acre feet of CAP water for use in its service area.

D. In February of 1998, eight community organizations in Sun City, Sun City West and Youngtown established the CAP Task Force to determine if the 6,561 acre foot allocation of CAP water intended for use in Sun City, Sun City West and Youngtown should be retained, and if so, how the water should be used and paid for.

E. Over a fourteen-week period, the CAP Task Force studied issues such as groundwater declines, the availability of alternative water supplies and the impact of relinquishing the CAP allocations.

F. After studying the options for use of CAP water, the CAP Task Force recommended that CAP water be retained and used through an arrangement with local golf courses. CAP water would be delivered to Sun City and Sun City West through a nonpotable pipeline ("the Pipeline") and used to irrigate golf courses that have historically pumped groundwater. The CAP Task Force submitted its final report by resolution on May 19, 1998.

G. This Agreement is intended to (1) provide CAP water to golf courses to replace their use of groundwater thereby preserving groundwater supplies under Sun City and benefiting the entire community; (2) allow Water Company to utilize its CAP water at substantially less cost than building a treatment plant thereby providing the most direct benefit to rate payers at the lowest possible cost; and (3) legally convert a portion of Water Company's groundwater pumping into surface water through a water exchange thereby significantly reducing the community's historic reliance on groundwater.

H. The Parties to this Agreement intend to implement the project through a water exchange. Water Company will give CAP Water and Recreation Centers will give groundwater in the exchange.

I. Sun City Water Company is an Arizona public service corporation within the meaning of Article 15, § 2 of the Arizona Constitution and is authorized to provide water service within portions of Maricopa County, Arizona ("the Certificated Area") pursuant to a certificate of convenience and necessity granted by order of the Arizona Corporation Commission ("ACC") and is authorized to withdraw groundwater pursuant to its water service area right (56-002038.0000) established under A.R.S. Title 45, Article 6.

J. Recreation Centers withdraws groundwater pursuant to certain non-irrigation grandfathered rights and other withdrawal authorities.

K. Water Company and Recreation Centers desire to enter into an agreement whereby Water Company provides CAP water to Recreation Centers for irrigation of golf courses in exchange for the use of groundwater, and Recreation Centers provides groundwater to Water Company for potable deliveries in exchange for the use of CAP water.

L. Recreation Centers acknowledges that in order to effectuate this Agreement, Water Company or an affiliated entity will construct the Pipeline to deliver CAP water to Recreation Centers' golf courses in reliance on Recreation Centers' commitment to use CAP water pursuant to this Agreement.

M. Water Company desires to use Recreation Centers' existing water distribution system for delivery of CAP water to the golf courses, which will allow Water Company to avoid certain costs of building a distribution system.

NOW, THEREFORE, in consideration of covenants and agreements contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

II. CAP EXCHANGE AGREEMENT

1. Exchange. Water Company and Recreation Centers hereby agree to exchange annually up to 4,189 acre feet of Water Company's CAP water for an equal amount of

Recreation Centers' groundwater. Pursuant to Arizona law, Water Company will account for the groundwater it receives in the exchange as CAP water and Recreation Centers will account for the CAP water it receives in the exchange as groundwater. Each party may use the water it receives only in the manner in which it may legally use the water it gives in the exchange.

2. Exchange Period. The exchange period is the calendar year.

3. CAP Water Rights. Water Company will exchange up to 4,189 acre-feet of CAP water pursuant to its Municipal and Industrial CAP Subcontract No. 8-07-30-W0379.

4. Groundwater Rights. Recreation Centers will exchange groundwater pursuant to the following water rights:

Type 2 Grandfathered Rights

58-101683.0000	1,433 acre feet
58-101682.0000	848 acre feet
58-101680.0000	1,428 acre feet
58-101681.000	626 acre feet
58-101679.0001	822 acre feet
58-101678.0000	1,145 acre feet
58-0101677.000	307 acre feet

For purposes of satisfying the Arizona Department of Water Resource's requirements for exchanging Type 1 rights, and for purposes of this exchange only, the parties hereby recite that Recreation Centers has the theoretical right to withdraw groundwater at the locations where Water Company will withdraw the exchanged groundwater. This does not allow Recreation Centers to use, have any rights to or in any way interfere with Water Company's use of Water Company's wells.

5. Term of Agreement. The initial term of this Agreement runs from the Effective Date through December 31, 2043, which is the date of expiration of the CAP Subcontract. If the CAP Subcontract term is extended or renewed, this Agreement, if still in effect, will

automatically renew for a period equal to the new term of the CAP Subcontract (together referred to herein as "Term").

6. Termination of Agreement.

6.1 Either party may terminate this Exchange if any of the following pre-conditions has not occurred.

- a. The Operating Agreement referenced in section 8 of this Agreement has been executed by both parties no later than December 31, 2000.
- b. Arizona Department of Water Resources ("ADWR") has issued all permits or approvals necessary to implement an exchange to enable the use of CAP water on Recreation Centers' golf courses no later than March 31, 2001.
- c. Recreation Centers has applied for and obtained sufficient authority to withdraw groundwater to achieve the purpose of this Agreement for the Term of this Agreement no later than December 31, 2000.
- d. The preliminary design/cost study ordered by the ACC in Decision and Order No. 62293 has been approved by the ACC.

6.2 Except as provided in section 6.1, Recreation Centers may terminate this Agreement only in the event of a material breach of this Exchange by Water Company.

6.3 Water Company may terminate this Exchange for the following reasons:

- a. A material breach by Recreation Centers, including if Recreation Centers remains in arrears in the payment of amounts due under Paragraph 10 of this Exchange for more than 60 days, which termination will be effective 15 days after mailing written notice of termination to Recreation Centers.
- b. If Water Company cannot legally continue to deliver CAP water to Recreation Centers golf courses, after having made a good faith effort to maintain and/or obtain the necessary legal authority to do so.
- c. If Recreation Centers cannot legally continue to exchange groundwater with Water Company, after having made a good faith

effort to maintain and/or obtain the necessary legal authority to do so.

- d. If it becomes necessary for Water Company to use the CAP Subcontract water for potable deliveries to the residents of Sun City. Before Water Company may terminate this Exchange for this purpose, Water Company must give Recreation Centers at least two years notice, consult with the Board of Directors of Recreation Centers and hold a public information meeting to discuss with the community the reasons for changing the use of the CAP water. If such a change is made, Water Company may not use any water under the CAP Subcontract for the benefit of customers located outside of the certificated area of Sun City Water Company.

6.4 If this Agreement is terminated before Water Company has recovered its investment in the Pipeline and the Pipeline is no longer being used to benefit Sun City water ratepayers, it is the parties' understanding that the ACC would ultimately determine whether Water Company could continue to reflect its investment in the Pipeline in water rates.

7. Delivery and Acceptance of CAP Water. Water Company will meter and deliver to Recreation Centers CAP water for use on its golf courses in the amounts determined pursuant to Paragraph 9 of this Agreement. Water Company will deliver the water at the location shown in Exhibit A to this Agreement ("Point of Delivery"). In no event is Water Company obligated to deliver more than 4,189 acre feet of CAP water in any one year. Recreation Centers agrees to accept delivery of the amount of water ordered pursuant to Paragraph 9 of this Agreement and to use the water in accordance with the terms of this Agreement. Water Company's obligation to deliver CAP water is subject to Water Company's ability to receive the CAP water from the Central Arizona Water Conservation District ("CAWCD"). This Agreement is subject to the terms and conditions of the CAP Subcontract and the Master Repayment Contract between the CAWCD and the United States, as amended.

8. Location of Use. The CAP water delivered to Recreation Centers pursuant to this Agreement may be used only at the locations where Recreation Centers has the legal authority to use groundwater pursuant to existing authorities to withdraw held by Recreation Centers or any additional authorities to withdraw that may be acquired in the future.

9. Ordering and Delivery of Water. Recreation Centers will order and Water Company will deliver the CAP water pursuant to the ordering and delivery procedure set forth in the Operating Agreement attached hereto as Exhibit B. The Operating Agreement may be amended from time to time by written agreement of both parties without amending this Agreement. Water Company is not obligated to deliver water to Recreation Centers until such time as construction of the Pipeline is complete. Recreation Centers agrees to use its best efforts to use 4,189 acre feet of CAP water on its golf courses each year, consistent with best golf course management practices and legal requirements. Nothing in this Agreement shall be construed to limit the Association's legal right to pump groundwater pursuant to its permits if Water Company is unable to deliver the amounts of CAP water anticipated by this Agreement.

10. Payment for Exchanged Water. Recreation Centers must pay Water Company a charge per acre foot of water received pursuant to this Agreement ("the Exchange Charge"). The Exchange Charge for the first five years of deliveries will be an amount equal to 80% of Recreation Centers' average per acre foot cost of purchased power for pumping groundwater during the calendar year prior to the first year Water Company delivers CAP water to Recreation Centers. This will be determined by Water Company in an audit of Recreation Centers' power records. Following the end of the fourth full calendar year of deliveries, Water Company will audit Recreation Centers' books and records pertaining to the power costs of pumping groundwater and determine what the Recreation Centers' average per acre foot power cost for

pumping groundwater would have been in the fourth year had it been using 100% groundwater. The Exchange Charge in the sixth through tenth calendar years will be 80% of this per acre foot amount. Recreation Centers agrees to provide any relevant information requested by Water Company for the audit and cost determination. Water Company will perform such an audit and determination every five years and adjust the Exchange Charge accordingly. Water Company will bill Recreation Centers monthly and Recreation Centers must pay the Exchange Charge within 30 days of receipt of a bill. If Recreation Centers does not pay the charge within 45 days of receipt of the bill, Recreation Centers must pay a late charge of 1.5% per month for each day the payment is delinquent beyond the due date.

11. Additional CAP Water. If Recreation Centers acquires additional CAP water after the effective date of this Agreement, Water Company will work with Recreation Centers to either 1) include the additional water in the exchange through an amendment to this Agreement or a separate agreement, or 2) enter into a new agreement for direct delivery of the CAP water to Recreation Centers.

12. Water Quality. Water Company will deliver water to Recreation Centers suitable for use for irrigating golf courses at the Point of Delivery. Recreation Centers is responsible for the quality of water after the Point of Delivery.

13. Water Exchange Notice and Reporting. Water Company will file a Notice of Water Exchange as required by A.R.S. § 45-1051. In addition, both Water Company and Recreation Centers will file annual reports on water exchanged pursuant to A.R.S. § 45-1004 and will exchange water in accordance with the exchange agreement and any other legal requirements applicable to the exchange. In no event will Recreation Centers use the CAP water in a manner in which it was not legally entitled to use the groundwater being exchanged.

14. Dispute Resolution.

14.1 Scope. This section governs the resolution of all disputes arising under this Agreement.

14.2 Good Faith Negotiations. The party that believes a dispute exists under this Agreement will first refer the dispute to the Representatives for resolution. The Representatives of each party will personally meet and attempt in good faith to resolve the dispute. If the Representatives cannot resolve the dispute within 14 days, the matter will be referred to senior management of Recreation Centers and Water Company for resolution. If these persons are unable to resolve the dispute within 7 days thereafter, a party that still believes the dispute requires resolution may avail itself of the provisions of section 14.3.

14.3 Arbitration. If a party still believes a dispute requires resolution, after following the procedures of Paragraph 14.2, that party will first give a detailed written notice of dispute to the other parties setting forth the nature of the dispute. The Parties will then, upon request of any party, be submitted for and settled by binding arbitration administered by AAA before a single arbitrator. The arbitrator must have substantial experience with the water utility industry. The arbitrator has no power to amend or modify this Agreement. Judgment on the award rendered by the arbitrator must be entered in any court with jurisdiction.

14.4 Other Remedies. The preceding subparagraphs of this Paragraph 14 are intended to set forth the primary procedure to resolve all disputes under this Agreement. It is expected that all disputes that would traditionally be resolvable by a law court would be resolvable under this procedures. However, the Parties recognize certain business relationships could give rise to the need for one or more of the Parties to seek equitable remedies from a court that were traditionally available from an equity court, such as emergency, provisional or

summary relief and injunctive relief. Immediately following the issuance of any such equitable relief, the Parties will stay any further judicial proceeding pending arbitration of all underlying claims between the Parties. The Parties also recognize that the ACC has primary jurisdiction over certain issues that may arise among and between the Parties that relate to the provision of public utility service. Accordingly, this Article is not intended to prohibit any party from bringing any such issues to the ACC for resolution or from taking any position at the ACC that would be inconsistent with or barred by this Agreement or by collateral estoppel, *res judicata* or other issues or fact-preclusive doctrines.

14.5 Appeal. Within 30 days after the date of the arbitration award, a party may appeal to the U.S. District Court for the District of Arizona, if such court has jurisdiction, and otherwise to any state court of record in Arizona having jurisdiction, to vacate and remand, or modify or correct the arbitration award for any of the grounds specified in the Federal Arbitration Act.

14.6 Confidentiality. The arbitration proceedings will be conducted in secrecy. Except as otherwise agreed by the Parties in writing, (a) the fact of the pending arbitration will not be disclosed or confirmed by the Parties or the arbitrator to any person who is not a party to, or called to testify at, the proceedings until the arbitration award has been made, (b) the proceedings will not be recorded or transcribed in any manner, and (c) all documents, testimony and records (other than the contract documents out of which the dispute arises) will be received, heard and maintained by the arbitrator in secrecy, available for inspection only by the Parties, their attorneys and by experts who must agree, in advance and in writing, to receive all such information in secrecy. The secret information will not be described in the arbitration award in such manner as to be commercially useful.

15. Indemnification. Water Company is not responsible for the control, carriage, handling, use, disposal or distribution of any water beyond the Point of Delivery. Each party (indemnitor) to this Agreement agrees to indemnify and hold harmless the other party (indemnitee) and its governing bodies, agents, directors, officers and employees for, from and against any loss, damage or liability, including reasonable attorney's fees, caused by a negligent or intentionally willful action or inaction on the part of the indemnitor and its governing bodies, agents, directors, officers and employees, including without limitation, claims for bodily injury, illness, death or damage to property. Each party assumes liability for its own negligent or intentionally willful action or inaction arising out of the terms and conditions of this Agreement.

16. Uncontrollable Forces. Neither party will be considered to be in default in the performance of its obligations under this Agreement (other than obligations to make payments due hereunder) when a failure of performance is due to Uncontrollable Forces. The term "Uncontrollable Force" means any natural or artificial cause beyond the control of a party to this Agreement that renders the party unable to perform its obligations, including but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, government priorities and restraint by court order or public authority, and action or inaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence the party could not reasonably have been expected to avoid and which by exercise of due diligence it is unable to overcome. Nothing contained herein may be construed to require either party to settle any strike or labor dispute in which it is involved.

17. General Provisions.

17.1 Effective Date. This Agreement is effective upon execution of the Agreement by all parties.

17.2 Recitals Incorporated. All of the recitals made herein are incorporated by reference.

17.3 Authorized Representatives. Within 30 days after execution of this Agreement, each party will designate in writing to the other party an authorized representative ("Representative") and an alternate ("Alternate") to administer the provisions of this Agreement on behalf of the designating parties. An Alternate may act only in the absence of the Representative. Written notice of a change of Representative or Alternate must be provided at least 30 days before such change becomes effective. Arrangements or understandings of the representatives pursuant to this Agreement must be in writing and signed by them, but notwithstanding the foregoing, neither the Representatives nor the Alternates have authority to amend this Agreement.

17.4 Binding Effect. The provisions of this Agreement inure to the benefit of and be binding upon the respective heirs, personal representatives, successors and assigns of the Parties, but no assignment or transfer of this Agreement or any interest therein is valid until approved in writing by the other party. Such approval may not be unreasonably withheld.

17.5 Notices. Any notice given pursuant to this Agreement must be in writing and be personally delivered or deposited in the United States mail, postage prepaid, certified and return receipt requested to the Parties as follows:

To Water Company: Sun City Water Company
P.O. Box 1687
Sun City, Arizona 85372
Attn: General Manager

To Recreation Centers: Recreation Centers of Sun City
10626 Thunderbird Boulevard
Sun City, Arizona 85351

Notices are deemed given when personally delivered or, if mailed, five days after the deposit of the notice in the U.S. mail. If a notice initiates the running of a time period for the performance of, or compliance with, any obligation or duty set forth in this Agreement, the notice must be sent certified, return receipt requested. Any party hereto must give written notice of a change of address to the other party as provided above.

17.6 Good Standing; Authority. Each of the Parties represents and warrants to the other party: (a) that it is duly formed, validly existing and in good standing under all applicable laws; and (b) that the individual(s) executing this Agreement on behalf of the respective parties are authorized and empowered to bind the Parties on whose behalf each such individual is signing.

17.7 Exhibits. Any exhibit hereto is incorporated herein by this reference with the same force and affect as if fully set forth in the body hereof.

17.8 Attorney's Fees. If any action is brought by any party with respect to its rights under this Agreement, the prevailing party or parties are entitled to reasonable attorney's fees and court costs from the other party or parties as determined by the court.

17.9 Entire Agreement. The terms, covenants and condition of this Agreement constitute the entire agreement between the Parties and no understandings or obligations not expressly set forth herein are binding upon them. All prior and contemporaneous agreements,

representations and understandings of the Parties, oral or written, on the subject matter of this Agreement, are hereby superseded and merged herein.

17.10 Further Documentation. Each party agrees in good faith to execute, deliver, acknowledge or record further or additional documents, approvals or consents as are required or desirable in order to fully carry out the intent and purpose of this Agreement.

17.11 Governing Law. This Agreement is made under and is governed by the laws of the State of Arizona. Subject to the provisions of Paragraph 16, all proceedings related to this Agreement will be maintained in the courts of the State of Arizona (including the United States District Court for the District of Arizona), which courts have jurisdiction over those proceedings.

17.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which is an original, but all of which constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

17.13 Amendments and Modifications. This Agreement may be modified, amended, rescinded, cancelled or waived, in whole or in part, only by a written instrument executed by all parties.

17.14 Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable under any applicable statute or rule of law, the provision is deemed null and void, but the remainder of this Agreement remains in full force and effect.

17.15 No Partnerships. The Parties to this Agreement may not be deemed to have formed a partnership or joint venture by their execution of this Agreement. The provisions

of this Agreement are not intended to be for the benefit of any person, firm, organization or corporation not a party hereto and no such person or entity have any rights or cause of action under this Agreement.

17.16 Waiver. No delay in exercising any right or remedy will constitute a waiver thereof, and no waiver by any party of the breach of any covenant of this Agreement may be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

17.17 Compliance with Laws. Recreation Centers agrees to comply with all applicable local, state and federal laws and permit requirements specifically including all requirements of the Arizona Groundwater Code.

17.18 Books and Records. Recreation Centers must establish and maintain books and records pertaining to use of water under this Agreement, including data on water received and used and any reports filed with ADWR. Subject to applicable laws and regulations, each party to this Agreement has the right during office hours to examine and make copies of each other's books and records relating to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first above written on behalf of Water Company and Recreation Centers by the respective company officials.

SUN CITY WATER COMPANY

Date: 10/30/00

By: Ray L. Jones
Its: Vice President & General Manager

RECREATION CENTERS OF SUN CITY

Date: 10-27-00

By: Robert J. Briscoe
Its: President - Board
of Directors R.C.S.C.

EXHIBIT A

LOCATIONS OF USE AND POINTS OF DELIVERY

EXHIBIT B

OPERATING AGREEMENT